

## **COURTS TAKE TAXPAYERS' SIDE IN A FUEL DISPUTE**

We can see a growing tendency for courts to rule in favour of taxpayers in relation to the personal income tax treatment of transactions where employers pay the fuel costs of employees using company cars for private purposes.

We have mentioned elsewhere (see our newsletters nos. 82/2015 and 9/2016) that the Provincial Administrative Court ("PAC") in Wrocław ruled on 23 November 2015 (case no. I SA/Wr 1595/15) that the PLN 250/400 allowance provided for in the PIT Act covers all expenses which the employer pays for the employee to use his or her company car for private purposes, including fuel expenses.

In recent days there have been two more cases where the courts agreed with the above position and reversed taxpayer-unfriendly rulings by tax authorities (see decisions by PAC in Warsaw dated 5 May 2016 in case no. III SA/Wa 1925/15 and by PAC in Opole dated 6 May 2016 in case no. I SA/Op 68/16). Written statements of reasons for those judgements have not been published yet.

But those cases have not been enough to cause a turnaround in the taxpayer-unfriendly practice of the Finance Minister, which claims that the PLN 250/400 allowance does not include fuel.

None of the three judgements cited above is final and definitive so the fuel dispute may well reach the Supreme Administrative Court.

If this issue pertains to your business and you are interested in our assistance, please contact your WTS&SAJA consultant or our office.

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